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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,824	02/08/2002	Jan M. Huml	G-U HARDWARE	9562

7590 09/16/2003
James C. Wray
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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,824

Applicant(s)

HUML, JAN M.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-19 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 19 February 2003 is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's appeal brief filed on July 31, 2003.
2. In view of the appeal brief filed on July 31, 2003, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) Request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Specification

3. The specification is objected to because of the following informalities:
 - Page 4 Line 3, add --to give strength to the flat body-- after "tongue 11".
 - Page 4 Line 4, add --to provide a guide surface around the U shaped opening-- after "opening 14".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 1 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,318,333 to Dreifert in view of US Pat No 5,582,445 to Olsen et al. (Olsen).

Dreifert discloses a casement window operator apparatus comprising a housing having a main body (10) and a cover (11).

A sliding tongue (23) is fitted between the cover and the main body. The sliding tongue includes an extension that includes a U-shaped opening (29) for engaging a connector (22) on a window-moving linkage (20). The main body is connected to a lever (13).

However, Dreifert fails to disclose that the apparatus is made of a plastic polymer.

Olsen teaches that is known in the art to have a window operator apparatus (10) made of a plastic polymer polymeric (Col. 4 Lines 25-36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an apparatus made of a plastic polymer, as taught by Olsen, into a latch as described by Dreifert, because it is consider as a design choice that will not affect the locking mechanism.

6. **Claim 1 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,450,554 to Rotondi et al (Rotondi) in view of US Pat No 5,582,445 to Olsen et al. (Olsen).

Rotondi discloses a casement window operator apparatus (10) comprising housing having a main body (50) and a cover (68).

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A sliding tongue (30) is fitted between the cover and the main body. The sliding tongue includes an extension that includes a U-shaped opening (32) for engaging a connector on a window-moving linkage. The main body is connected to a lever (112).

However, Rotondi fails to disclose that the apparatus is made of a plastic polymer.

Olsen teaches that is known in the art to have a window operator apparatus (10) made of a plastic polymer polymeric (Col. 4 Lines 25-36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an apparatus made of a plastic polymer, as taught by Olsen, into a latch as described by Rotondi, because it is consider as a design choice that will not affect the locking mechanism.

Allowable Subject Matter

7. **Claims 7-19 are allowed.**
8. **Claim 2 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3-6 will be allowed because they depend from claim 2.

Response to Arguments

8. Applicant's arguments filed on July 31, 2003 have been fully considered but they are not persuasive.

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After reviewing applicant's arguments in the appeal brief and in the amendment filed on May 27, 2003, the rejection to claims 2 and 15 is withdrawn because Goforth fails to disclose that the flat body includes a thick rim around it to give strength to the body (May 25, 2003 amendment, page 10 line 7). However, it is not apparent to see this limitation from the drawings and the specification as establish by the applicant. Therefore, the applicant has to include in the specification this limitation (See Objection to the Specification above). The rejection to claims 3-6 is also withdrawn because they depend from claim 2.

As to the rejection to claim 1, the rejection is maintained. Dreifert, as modified by Olsen, or Rotondi, as modified by Olsen, discloses the invention as claimed. Olsen is used only to show that is known in the art to use a plastic polymer polymeric.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

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Carlos Lugo
Examiner
Art Unit 3677

September 4, 2003.



J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600